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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,575	10/13/2000	Rima Kaddurah-Daouk	AVZ-007CP3	9336

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LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON, MA 02109-2127

EXAMINER	
RAHMANI, NILOOFAR	
ART UNIT	**PAPER NUMBER**
1625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/687,575	KADDURAH-DAOUK ET AL.	
	Examiner	Art Unit	
	Niloofar Rahmani	1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *86,91,93,95,98-100,108,113,115,117,120-122,133 and 134* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *86,91,93,95,98-100,108,113,115,117,120-122,133 and 134* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 86, 91, 93, 95, 98-100, 108, 113, 115, 117, 120-122, 133-134 are pending in the instant application. Claims 1-85, 87-90, 92, 94, 96-97, 101-107, 109-112, 114, 116, 118-119, 123-132 are cancelled.

Priority

2. This application is filed on 10/13/2000, which is a CIP of application # 09/285,395, filed on 04/02/1999 (ABN), which is a CIP of 09/283,267, filed on 04/01/1999 (ABN), which claims benefit of 60/080,459, filed on 04/02/1998. A priority claims for the filing date of PCT application PCT/US99/07340 is in the application, but this document is not included in the file. For the claims to be completely valid, applicants must provide the priority document.

3. The rejection of claims 86, 91, 93-95, 96, 98-100, 108, 113, 115-117, 120-122, and 133-134 under 35 U.S.C. 112, second paragraph for the terms "glutamate excitotoxicity, spin traps, growth factor, nicotinamide, ICE inhibitors, neuroimmunophilis, antioxidants, lipoic acid, cofactors, riboflavin, CoQ10" is withdrawn for reason of applicants argument in paper dated 11/28/2006.

4. The rejection of claims 86,93,95,98,100,108,115,117,120,122,133-134 under 35 U.S.C. 102(e) over Blass et al., US 6,537,969 is maintained for reason of record. Applicants argue that independent claims 86,108,133-134 of the present invention are directed to method of treating Parkinson's disease or Huntington's disease in a subject by administering creatine, a creatine phosphate or a creatine compound and a neuroprotective agent. In contrast, Blass et al.,

teaches methods of and compositions for treating disorders associated with impaired mitochondrial function. However, Blass et al. does not teach or suggest the combination of creatine, a creatine phosphate or a creatine compounds and a neuroprotective agent for the treatment of Prkinson's disease or Huntington's disease. Moreover, Blass et al. does not teach or suggest neuroprotective agents selected from the group consisting of inhibitors of glutamate excitotoxicity, 2,3 dimethoxy-5-methyl-6-decaprenyl benoquinone, nicotinamide, spin traps, nitric oxide synthase inhibitors, cyclooxygenase 2 inhibitors, aspirin, N-acetylcysteine, antioxidants, lipoic acid, riboflavin, and CoQ10, as claimed in the present invention.

It is the examiner's position that Blass et al. disclosed the pharmaceutical composition combining of creatine, neuroprotective agent, antioxidants, riboflavin and L-carnitine (see column 5, lines 33-50). Blass et al. disclosed on column 7, lines 10-13 that the above pharmaceutical composition can be used to treat Parkinson's disease and Huntington's disease.

5. The rejection of claim 99 under 35 U.S.C. 103(a) over Blass et al., US 6,537,969 is maintained for reason of record. Applicants argue that claim 99 is directed to methods for treating Parkinson's disease by administering to a subject creatine, a creatine phosphate or a creatine compound, a neuroprotective agent and at least one additional neuroprotective agent or creatine compound. Blass et al. do not teach or suggest the presently claimed methods of treating Parkinson's disease by administering to a subject creatine, a creatine phosphate or a creatine

comound in combination with a neuroprotective agent. Neither does Blass et al. teach or suggest the neuroprotective agents disclosed in independent claims 86 and 133, on which claim 99 depends. Further, Blass et al. does not teach or suggest a therapeutically effective amount of creatine for the treatment of Parkinson's disease.

It is the examiner's position that the 102(e) above shows the combination of creatine, neuroprotective agent, antioxidants, riboflavin and L-carnitine (see column 5, lines 33-50) to treat Parkinson's disease and Huntington's disease (see column 7, lines 10-13). Using that pharmaceutical composition with one more additional neuroprotective agent or creatine compound is within the skill of the ordinary artisian. It would have been obvious to the skilled artisan at the time the invention was made to take a working combination of multiple ingredients and to add additional active ingredients fully encompassed by the teaching of Blass et al. and expect stronger ingredient activity.

6. The rejection of claims 86,91,93,95,98-100, 133 under 35 U.S.C. 112, first paragraph is maintained for reason of record. Applicants argue in the state of the prior art that the examiner asserts that the 3-NP model of Parkinson's disease is not predictable. Applicants respectfully submit that the specification teaches the MPTP model, not the 3-NP model, for Parkinson's disease. In the working example section, applicants respectfully submit that Example 2 discloses detailed methods for screening creatine, a creatine phosphate or a creatine compound in

mice subjected to MPTP-induced Parkinsonian syndrome, along with methods for determining the affect of these compounds on mice.

It is the examiner's position that the Example 2 is prophetic example. On page 54, line 36 to page 56, line 10 of the specification, applicant has mouse models of Parkinson's disease such as MPTP. On figure 4, the doses of using creatine and neuroprotective effects against MPTP measuring protein synthesis. However, applicant has not guidance or examples for treating Parkinson's disease using pharmaceutical composition of a combination of creatine, creatine phosphate or a creatine compound and a neuroprotective agent. Nor does applicants have any examples of MPTP model of the instant compounds working on the MPTP model.

7. The rejection of claims 108,113,115,117,120-122 and 134 under 35 U.S.C. 112, first paragraph is maintained for reason of record. Applicants argue in the state of the prior art that the 3-NP model was considered an appropriate model for Huntington's disease at the time the application was filed. Applicants argue that a skilled artisan would have also been able to identify appropriate neuroprotective agents from the specification and would be able to make the composition of the instant claims.

It is the examiner's position that Mitchell et al. has shown the 3-NP model is not predictable. Because of the current knowledge, knowing the 3-NP is not predictable to treat Huntington's disease. Therefore, applicants need more

guidance of working examples to bridge this gap. The abilities to make the instant claims composition is no part of enablement rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niloofar Rahmani whose telephone number is 571-272-4329. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Mckenzie, can be reached on 571-272-0670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NILOOFAR RAHMANI
01/12 /2007

D. MARGARET SEAMAN
PRIMARY EXAMINER
GROUP 1625